# Use of Restrictive Practice in Clayton Croft Policy – SO-0012

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| **Owner** | Clayton Croft Registered Manager |
| **Policy Advisor(s)** | National Behaviour Lead<br>Psychology & PBS Team<br>Safeguarding Team |
| **Ratified by** | Director of Education & CYP Services – March 2023 |

**This policy is to be read in conjunction with the Use of Restrictive Practice Procedures in Clayton Croft - SO-0012-001-0423.**

## Contents



## Purpose

The purpose of this policy document is:

1. To state the National Autistic Society's philosophy towards restrictive practice(s) within the relevant legal and regulatory framework.
2. To give guidance to staff in order to enable them to be clear as to what forms of restrictive practices are permissible and when they should be considered.

3. To give clear guidance to staff about which forms of restrictive practices are never acceptable and the reasons for this.
4. To ensure that the use of restrictive practices are minimized, and clear reduction plan(s) and strategies exist for those where restrictive practice is necessary.

The rights and dignity of children resident at Clayton Croft, even when behaving in a physically challenging way, must always be borne in mind. Any restrictive practice must be used with a view to keeping them and others safe, with the aim of allowing the individual not only to recover self-control, but also to acquire alternative adaptive behaviours that, over time, decrease the level of intervention needed.

**NOTE -** Procedure for admission where an individual is dependent on seclusion or restraint to manage his or her behaviour must be read in conjunction with this Policy.

## Introduction

Autistic children sometimes behave in ways that others can find challenging and which, on some occasions, may be dangerous; potentially resulting in harm to the child displaying the behaviour, peers, staff or the public. Such behaviours may initially appear to be unpredictable and can be frightening for all concerned including the child displaying the behaviour.

Across the United Kingdom, the primary duty of the National Autistic Society as a care and education provider is to ensure the people we support are safe from harm. The fundamental but complex need to balance the right to freedom, dignity and respect, with ensuring safety from harm is at the heart of this policy and guidance (The Restraint Reduction Network (RRN) Key Strategy 1).

There are a variety of approaches and strategies that can be used to prevent situations from developing into incidents likely to cause harm such as: de-escalation, low arousal techniques and other examples of Positive Behaviour Support.

However, on some occasions it may be necessary to use, as a last resort, a strategy that includes a restrictive practice. Any form of restrictive practice will only be used in order to maintain the welfare and safety of the child and others. Staff will be trained in approved techniques and any unplanned interventions outside of a child's positive behaviour support plan will be investigated to ensure that action taken was proportionate and appropriate at the time to prevent harm to the individual or others.

## Legal context

British Institute of Learning Disabilities (BILD) define a restrictive practice as:

*'The implementation of any practice or practices that restrict an individual's movement, liberty and freedom to act independently without coercion or consequence. Restrictive practices are highly coercive actions that are deliberately enacted to prevent an individual from pursuing a particular course of action" - BILD Code of practice 4th edition.*

Regarding physical intervention, the crux of common law (both criminal and civil) is that;

- Any threat of non-consensual touching is an **assault**,
- Any actual touching is **battery**
- Any wrongful hindrance to mobility is **false imprisonment.**

The law recognises that there are situations where some restrictive practice is necessary as an act of care. For example, if someone has a learning disability, mental illness or related disorder, that puts someone at risk, carers may have a legal duty to restrain the child in his or her own interests. Where someone takes on a caring role, he or she owes a 'duty of care' to the child. This means that the carer must do what is reasonable to protect the child from reasonably foreseeable harm. If someone's actions could put other people at risk, staff have a duty of care to respond positively, which might include as a last resort restraining the child to prevent harm.

To ensure that we follow best practice when managing signs of stress and physically challenging behaviour, we follow and adhere to the guidance within the BILD codes of Practice and the RRN guidance, the guidelines include trainer and trainee codes of practice and the 6 key strategies to the reduction of the use of restraint.

The 6 Key strategies for restraint reduction are;

1. **Strategy One: Leadership.** The organisation develops a mission, philosophy and guiding values which promote non-coercion and the avoidance of restraint. Executive leaders commit to developing a restraint reduction plan which is implemented and measured for continuous improvement.
2. **Strategy Two: Performance Measurement.** The organisation takes a 'systems' approach and identifies performance measures which determine the effectiveness of its restraint reduction plan and which measure key outcomes for customers.
3. **Strategy Three: Learning and Development.** The organisation develops its staff with the knowledge and skills to understand and prevent crisis behaviour. Training is provided which gives staff the key competencies and supports the view that restraint is used as a last resort to manage risk behaviour associated with aggression, violence and acute behavioural disturbance.
4. **Strategy Four: Providing Personalised Support.** The organisation uses restraint reduction tools which inform staff and shape personalised care and support to customers.
5. **Strategy Five: Communication and Customer Focus.** The organisation fully involves customers in a variety of roles within the service, identifies the needs of customers and uses these to inform service provision and development.
6. **Strategy Six: Continuous Improvement.** The principle of post-incident support and learning is embedded into organisational culture.

A restrictive practice is only justified in law if there is the presence of a **clear and immediate danger**. The term 'immediate' in this context refers to seconds as opposed to minutes. It does not justify action taken to prevent a possible danger unless incident

data clearly shows that a given behaviour or cue quickly results in escalation to a dangerous level, in which case a planned intervention may be justified in the short term, whilst further more positive and proactive strategies are developed (See British Institute of Learning Disabilities Code of Practice).

As well as the presence of a clear and immediate danger staff must also be able to demonstrate that all other available less restrictive options have been tried and failed before the use of a restrictive practice. A useful acronym in this situation is 'TINA' - There Is No Alternative.

The Managing Signs of Stress framework and training offers guidance and a series of non-restrictive and non-aversive techniques to avoid/reduce the use of restrictive practices. There is an expectation that alternatives to a restrictive practice would increase with staff training, experience and knowledge of the individual (RRN Key Strategy 4).

If you can find no alternative to using a restrictive practice then you should use it.

- **Duty of Care** – National Autistic Society staff have a duty of care towards the people supported, which requires the organization to take reasonable care to avoid doing something or failing to do something which results in harm to another child. There are situations where some action must be taken and it is a matter of choosing the course of action that would result in the least harm.
- **Best Interest** - The principle of best interest applies. A member of staff must demonstrate that in the presence of a clear and immediate danger they have considered all available alternatives, acted in the best interest of the child in their charge, have considered that not acting could result in greater harm, and does not use unreasonable or excessive force, then the action can be defended in law.
- **Reasonable & Proportionate** - Any force used must be 'reasonable and proportionate', reasonable in that it is the minimum force required to prevent injury and proportionate in that it is not excessive given the seriousness and likely harmful consequences of the child's behaviour. As with all issues to do with caring for, developing and teaching the children, young people and adults we support, decisions need to be made on the best available knowledge at the time.

A useful concept to bear in mind when carrying out any restrictive practice is that of **Social Validity.** During any restrictive practice we should be conscious both of how our intervention may look to others not involved in the interaction and how we would like ourselves, family members or friends to be interacted with in similar circumstances.

## Training (RRN Key Strategy 1-5)

All training which includes the use of Physical Interventions and Restrictive Practices should be assessed by Service and Individual needs. The process will be managed through the use of a Tiered approach and Individual Risk Management Planning and Training needs assessments. (RRN Key Strategy 3, 4 & 5).

Any agreed plan around the training of staff in the use of Restrictive Practices, should include a completed Restraint Reduction Plan as part of the overall plan, and should be monitored in line with our internal monitoring and reviewing processes to ensure the justified and necessary use of the restriction, and promote the reduction where proactive management plans are in place and working for the individual (RRN Key Strategy 6).

## Responsibilities

**Trustees**

- Trustees review of policy on the use of Restrictive Practices.
- Trustees will monitor the reduction in use of Restrictive Practices on a quarterly basis.

**Director of Education and Children's Services**

- Monitoring of implementation of this policy
- Monitor the use of Restrictive Practices on a regular basis
- Ensuring the allocation of internal and external resources (including clinical and counselling) to address the needs of individuals we support and staff with regard to the implications of serious challenging behaviour

**Registered Manager**

- Enforcing the implementation of this policy in Clayton Croft
- Maintaining a comprehensive recording and reporting process relating to the use of restrictive practices
- Ensuring relevant staff undergo training in the use of restrictive practice, with regular refreshers; currently provided by Studio 3
- Supporting care teams in developing risk assessments and behaviour support and care plans with regard to restrictive practices – with particular reference to calling for external or internal expert opinion as required.
- Ensuring plans are shared with family members, allocated social workers, the placing local authority other relevant professionals, and where appropriate with the child concerned, recognising the importance of consent in terms of the fundamental issues of respect and dignity.
- Regular monitoring of such plans.

**All Staff**

- Working always in the best interests of the child.
- Taking part in training provided in the use of restrictive practices and applying the principles and strategies taught.
- Satisfying themselves that they are clear on what they may and may not do in terms of restrictive practices, seeking clarification as necessary.
- Using Support & Supervision sessions to confirm their understanding of this policy and to seek further explanation or personal development as necessary.
- Following the recording and reporting procedures.
- Contributing to the development of behaviour support or care plans, and good practice.

## Complaints

Adults, parents, guardians, carers or children and young people have the right to offer comments and refer to the local complaints procedure (or Complaints Resolution for Clayton Croft Policy QS-0002) in the case of any disagreement in the use of restrictive practices.

Alternatively contact can be made with Ofsted – details can be found on the internet.

## Whistleblowing

Employees of the National Autistic Society have a duty to voice any concerns over care practice. Please refer to the Policy on Whistleblowing (HR-0002) for further information.

## References

Keeping Children Safe in Education 2022

Positive and Proactive Care: reducing the need for restrictive interventions (2014)

Code of Practice for the use and reduction of restrictive practices. 3rd edition (2010) BILD

Care Standards Act 2000

Carers Guide to Physical Interventions and the Law (2005) Christina Lyon and Alexandra Pimor, BILD, ISBN 1-904082-815

Children's Act 1989

Children's Homes Regulations (2001) – amendment (2011)

Use of Reasonable Force - Department for Education - www.education.gov.uk

Guidance on the Use of Restrictive practices for Pupils with Severe Behavioural Difficulties - *Department* for Education – www.education.gov.uk

Easy Guide to Physical Interventions for people with Learning Disabilities, their Carers and Supporters (2002) BILD, ISBN 1-902519- 973

Education and Inspection Act 2006

Good practice in Physical Interventions (2006) Ed Sharon Paley and John Brook, BILD, ISBN 1-904082-742

Human Rights Act 1998

Mental Capacity Act 2005.

Mental Health Act 1983 Code of Practice (2015 Revision)

Mental Capacity Act 2005, s20

Murphy, G. & Wilson, B. (1985) *Self-injurious Behaviour*. British Institute of Learning Disabilities, Kidderminster. – www.BILD.org.uk

Education and Inspections Act 2006 *(Part 7, Discipline, Behaviour and Exclusion)*. www.legislation.gov.uk

The Care Act 2014